

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Petition for
Reinstatement of:**

Vahe Michael Azarian, M.D.

**Physician's and Surgeon's
Certificate No. A 125140**

Case No.: 800-2021-082607

Respondent.

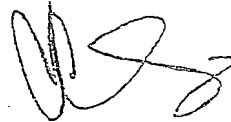
DECISION

The attached Proposed Decision is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on March 20, 2023.

IT IS SO ORDERED: February 16, 2023.

MEDICAL BOARD OF CALIFORNIA



**Laurie Rose Lubiano, J.D., Chair
Panel A**

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Petition for Reinstatement of:

VAHE MICHAEL AZARIAN, Petitioner.

Agency Case No. 800-2021-082607

OAH No. 2022070419

PROPOSED DECISION

Julie Cabos-Owen, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on December 14, 2022. Vahe Michael Azarian (Petitioner) appeared and was represented by Scott J. Harris, Attorney at Law. Pursuant to the provisions of Government Code Section 11522, Marsha Barr-Fernandez, Deputy Attorney General, represented the Attorney General of the State of California.

Testimony and documentary evidence was received. Exhibits C, D, E, G, H, and I contained confidential information protected from disclosure to the public. Redaction of this exhibits to obscure confidential information was not practicable and would not provide adequate privacy protection. To prevent the disclosure of confidential information, the ALJ issued a Protective Order placing Exhibits C, D, E, G, H, and I under seal following their use in preparation of the Proposed Decision. These exhibits

shall remain under seal and shall not be opened, except by order of the Medical Board of California (Board), by OAH, or by a reviewing court. A reviewing court, parties to this matter, their attorneys, or a government agency decision maker or designee under Government Code section 11517 may review the documents subject to this order provided that the documents are protected from release to the public.

The record was closed, and the matter was submitted for decision on December 14, 2022.

FACTUAL FINDINGS

Disciplinary History

1. Petitioner was previously the holder of Physician and Surgeon's Certificate (license) Number A 125140, issued by the Board on April 4, 2013.
2. Petitioner received his medical degree from Albany Medical College in 2011, and he immediately began an internal medicine residency at Olive View-UCLA Medical Center (Olive View or UCLA). In 2013, Olive View removed Petitioner from his clinical duties, placed him on medical leave, and referred him to the Medical Staff Health Program due to a positive urine test for amphetamines and concerns about his performance.
3. Petitioner completed a residential drug rehabilitation program. He returned to his residency program under required monitoring by the Pacific Assistance Group (PAG) Professionals' Support and Monitoring Program. As part of PAG, Petitioner attended group meetings with clinical psychologist and addiction specialist, Tracy Zemansky, Ph.D. However, less than a year into the PAG program, Dr. Zemansky

asked Petitioner to leave her group when he attended under the influence of methamphetamine. In 2015, Olive View terminated Petitioner from its residency program due to his failure to comply with the terms of his monitoring agreement.

JUNE 2016 INTERIM SUSPENSION ORDER

4. On June 14, 2016, an Interim Suspension Order (ISO) was issued against Petitioner, placing restrictions on his practice of medicine. The ISO was based, in part, on the following facts:

[Petitioner] began using marijuana [and other illicit drugs] while he was in medical school. . . . Over the next several years he began to abuse Ativan, Xanax, cocaine, methamphetamine, [gamma-hydroxybutyrate (GHB)] . . . , MDMA (a stimulant) and ketamine (an anesthetic). He used these drugs in combination, producing a "speed ball" to "even out" and control the agitation produced by stimulants. [¶] . . . [¶]

After termination from his Olive View residency, [Petitioner] worked [several] months at the Hollywood Walk-In Clinic. Thereafter, he worked at Advanced Urgent Care, owned by Jacob Rastegar, M.D. . . . Dr. Rastegar knew [about Petitioner's] drug abuse history and caused [Petitioner] to undergo random urine testing. . . . On March 11, 2016, [Petitioner] had a positive urine screen. Dr. Rastegar . . . terminated his employment. [At the time of the ISO,

Petitioner worked for] Reliant Immediate Care Medical Group, Inc.[.]

[Petitioner had] a history of failing to complete residential treatment programs. In an interview with the Board on April 11, 2016, [Petitioner] stated that Olive View first referred him to Gooden Center, but he got into a fight with another resident and left after five days. He was able to complete 30 days at Michaels' House, followed by intensive outpatient therapy for four months. However, one month after he left the outpatient program, [Petitioner] relapsed. He was referred to the Impact Recovery Center. . . [Petitioner] lasted 37 days before he was terminated from the program. . . . [Petitioner] then spent three months at Van Ness Recovery House but was administratively discharged because he had difficulty "complying with the treatment program rules." [Petitioner] was able to complete a three-month program at Creative Care Malibu where he had one instance of using methamphetamine[.] After his positive drug screen in March 2016, Respondent was expelled from his sober living facility.

(Exhibit 3, pp. A7-A8.)

5. In addition to the recovery programs noted above, in January 2016, Petitioner joined the Flying Knee support group, a weekly group for physicians in recovery, under the direction of Helene O'Mahony, Ph.D. In January 2016, Petitioner also began a monitoring program with Professional Monitoring, Inc., which conducts random urine testing. When Petitioner tested positive on March 11, 2016, he began bi-

weekly individual therapy. Petitioner also attended Alcoholics Anonymous (AA) meetings several times a week and worked with a sponsor. Petitioner was unable to maintain sobriety under any of these programs.

6. Experts who submitted declarations supporting the ISO found Petitioner suffered from polysubstance drug abuse, was significantly impaired by his drug abuse, and could not safely practice medicine without treatment. One expert noted Petitioner likely had untreated bipolar disorder which also required treatment.

7. The ISO required Petitioner to undergo a psychiatric evaluation and psychotherapy, abstain from the use of alcohol and controlled substances, and submit to biological fluid testing.

AUGUST 2016 CEASE PRACTICE ORDER

8. On August 19, 2016, a Cease Practice Order was issued against Petitioner based on his failure to comply with the ISO by testing positive for methamphetamine on August 1, 2016.

JUNE 2017 PROBATION ORDER

9. As required following the issuance of the ISO, on June 30, 2016, an Accusation was filed against Petitioner seeking revocation of his license based on the facts giving rise to the ISO.

10. Effective June 16, 2017, the Board issued a Decision adopting a Stipulated Settlement and Disciplinary Order (2017 Probation Order), revoking Petitioner's license, staying the revocation, and placing Petitioner on probation for seven years. Petitioner's probationary conditions included undergoing clinical evaluations, participating in psychotherapy and substance abuse support meetings, abstaining

from the use of alcohol and controlled substances, and submitting to biological fluid testing.

APRIL 2018 CEASE PRACTICE ORDER

11. On April 27, 2018, a Cease Practice Order was issued against Petitioner based on his failure to comply with the 2017 Probation Order when he tested positive for amphetamine and methamphetamine on April 10, 2018. The April 2018 Cease Practice Order was lifted on June 6, 2018.

JULY 2018 CEASE PRACTICE ORDER

12. On July 13, 2018, a Cease Practice Order was issued against Petitioner based on his failure to comply with the 2017 Probation Order when he tested positive for amphetamine and methamphetamine on June 30, 2018.

JULY 2018 PETITION TO REVOKE PROBATION AND JUNE 2019 SURRENDER

13. On July 26, 2018, a Petition to Revoke Probation was filed against Petitioner. On April 10, 2019, a First Amended Petition to Revoke Probation was filed seeking revocation of Petitioner's probation based on Petitioner's 12 positive drug tests in 2018. Additionally, in April 2018, Petitioner admitted "there were several ways in which he was able to beat urine tests in the past." (Exhibit 11, p. A108.)

14. Effective June 17, 2019, the Board issued a Decision adopting a Stipulated Surrender of License (2019 Surrender) and accepting Petitioner's surrender of his license.

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Petition

15. On August 26, 2021, Petitioner signed and subsequently filed his Petition for Penalty Relief seeking reinstatement of his license (Petition). Thereafter, this matter was set for hearing.

Petitioner's Rehabilitation

16. Petitioner testified at the administrative hearing. He presented as a respectful, forthright, and credible witness.

17. Petitioner grew up in Los Angeles, California. He recalled returning home from medical school in New York and feeling "family tension." He also recalled struggling with his sexuality and the difficult experience of coming out to his family in a "conservative world." However, Petitioner admitted he had an "inflated attitude" and believe he "could manage everything and still be a rock star resident."

18. Petitioner first used methamphetamine around 2012 or 2013 during a sexual relationship, and his addiction quickly took hold. Within six to eight months, he demonstrated changes in his behavior, appearance, and clinical performance.

19. When first confronted about his addiction in 2013, Petitioner refused to admit "the magnitude of [his] addiction or the measures it would take for [him] to recover." Petitioner believed he could abstain from drug use through his "own willpower." He rejected "the internal work of recovery" required by 12-step programs because he thought it was "so overly spiritual." Absent his wholehearted participation, Petitioner was unable to successfully "settle into recovery."

20. Petitioner's addiction also prevented him from properly treating his bipolar disorder. Although Petitioner was prescribed treatment for his bipolar disorder

in 2016, he was non-compliant with his medication regimen during the times he was abusing substances.

21. During his earlier recovery attempts, Petitioner failed many biological fluid tests. He began subverting test results by falsifying reasons for missing tests, providing "fake urine," and compromising the quality of his hair for testing. Petitioner recalled this being "the darkest period you can imagine anyone going through." He experienced an "intense internal upheaval" and was in "a constant state of fight or flight," unable to control himself or his addiction. He erroneously believed he could control his addiction, and when he could not, his "obsession [for] damage control led to [his] pathetic behavior" of subverting test results.

22. Petitioner testified his methamphetamine addiction was "gravely serious," "cost [him] everything," and came "close to costing [him his] life." Petitioner lost his job and his home, became estranged from his friends and family, and was unable to care for himself or perform several activities of daily living. He became trapped in a cycle of abstinence and relapse, feeling "incomprehensible demoralization in the last couple months of active drug use."

23. Petitioner last used methamphetamine on the evening of October 9, 2019. He recalled having a "moment of grace," when he was able to "look at [himself] in an honest way," At that moment, Petitioner was alone in a motel room, with no money. He feared for his life, and he did not know what to do. He called his AA sponsor, Ryan Peterson, M.D., and told him, "I cannot stop using. I am terrified."

24. On October 9, 2019, after contacting Dr. Peterson, Petitioner went to an AA meeting at Dr. Peterson's home. That night, Petitioner was able to "truly surrender himself" to the collective wisdom of the AA program and begin his recovery journey.

25. Petitioner's sobriety date is October 10, 2019.

26. From October 10 to 15, 2019, Petitioner underwent medical detoxification at Miracles Detox Southern California Hospital in Culver City. Thereafter, he was unable to find an inpatient treatment facility, so he was discharged to a sober living residence. Due to financial constraints, Petitioner resided at several different sober living residences over the next year and a half: Westwind Recovery, Inc., from October 15, 2019, to December 22, 2019; Gilmore House, from December 22, 2019, to January 5, 2020; and Jewish Center Recovery Home, from January 5, 2020, to March 22, 2021. While living at these sober living residences, Petitioner was required to maintain his sobriety and to submit to random alcohol and drug tests, all of which were negative for unauthorized substances. He was also required to attend weekly meetings and work through a 12-step recovery program. Petitioner successfully complied with these requirements.

27. Since October 2019, Petitioner has continued regularly attending AA meetings and Caduceus meetings, which are AA meetings for doctoral-level healthcare providers in recovery. He is a passionate and active member of AA, and he attends meetings four to five times per week. He has completed the 12 steps of AA, and he is working through them a second time. He sponsors two members, and he serves as secretary of one of his weekly AA meetings. He has also built friendships with other sober people outside of AA meetings.

28. From October 23, 2019, until the present, Petitioner has received psychiatric treatment services, including prescription medications for his bipolar disorder, from the Los Angeles LGBT Center. Petitioner has complied with his treatment regimen which has effectively managed his symptoms without titration for well over a year.

29. Petitioner has been attending individual therapy session at Ness Counseling Center since January 8, 2021. He has formed strong relationships with his therapists.

30. On August 19, 2020, Petitioner underwent an evaluation by addiction medicine specialist, Gregory Skipper M.D., who issued a report setting forth his findings and conclusions. Dr. Skipper's report notes Petitioner's educational and training history, medical and mental health history, family and social history, substance use history, and rehabilitation documentation. Dr. Skipper conducted cognitive testing and a mental status examination. Dr. Skipper diagnosed Petitioner with "Stimulant Use Disorder – Severe." (Exhibit D, p. B44.) Dr. Skipper recommended that Petitioner continue his recovery activities and enter a health professional monitoring program to document his ongoing abstinence.

31. On Dr. Skipper's recommendation, from August 24, 2020, to June 15, 2021, Petitioner submitted to monitoring by Professional Monitoring, Inc., to document his abstinence.

32. In May 2021, Petitioner sought re-entry to Dr. Zemansky's meetings at PAG.

33. Dr. Zemansky testified at the administrative hearing. She presented as a forthright and credible witness.

34. Dr. Zemansky recalled Petitioner's prior unsuccessful participation in her group meetings. She noted Petitioner's prior presentation as being "a fake," with a "pleasant and polite" façade, but "very obviously performing a role and not really invested in recovery." When Dr. Zemansky previously asked Petitioner to leave her group, she told him he would need six months of documented sobriety with testing

and monitoring to be allowed re-entry. Based on his documented sobriety, Petitioner was allowed to rejoin PAG and Dr. Zemansky's group meetings in May 2021.

35. As required by PAG, Petitioner currently attends two of Dr. Zemansky's group meetings per week. Dr. Zemansky confirmed Petitioner has complied with all PAG conditions since readmission. She has observed Petitioner to be a very active and engaged participant who reveals his own vulnerabilities and his personal story while supporting other group members. According to Dr. Zemansky, since Petitioner rejoined PAG in May 2021, he has demonstrated a "psychic change" in the way he engages with others and is "fundamentally different" from the man she first met. Rather than a shallow veneer of politeness, Petitioner now has "depth," and he is "no longer just playing a role." Petitioner is willing to acknowledge his mistakes and to learn. He now uses the tools of recovery while living his life with a positive attitude. Dr. Zemansky explained that, to work through recovery, being abstinent from drug use "is just the beginning," and an addict must "do the work, which is the personal transformation." Recovery involves "having a deep meaningful look at [one]self and the world, taking concrete actions to repair damage done in past, taking full responsibility for how [one] lived before, and making changes that allow for the . . . emotional and spiritual parts of being human to come forward." Dr. Zemansky confirmed Petitioner has, and continues to be, fully engaged in this process.

36. At Dr. Zemansky's suggestion, in addition to PAG requirements, Petitioner began working with AA's Hospital and Institutions Committee. This involves Petitioner visiting institutions and attending additional meetings. Dr. Zemansky observed Petitioner has taken on this additional responsibility with "seeming pleasure."

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37. Petitioner continues to attend Dr. Zemansky's group meetings. He is committed to remaining in PAG indefinitely because he feels it is in his best interest to do so.

38. From June 15, 2021, through the present, Petitioner has submitted to testing through First Source Solutions. All tests have yielded negative results for unauthorized substances.

39. At Dr. Zemansky's urging, Petitioner underwent an evaluation by addiction medicine specialist, James W. Golden, M.D., to confirm Petitioner's fitness for duty given his prior history. On September 21, 2022, Dr. Golden conducted the fitness for duty evaluation and issued a report of his findings. Dr. Golden testified at the administrative hearing in conformity with his report.

40. Dr. Golden found Petitioner fit to return to the practice of medicine with the following recommendations: (1) participation in PAG monitoring program for five years and/or the duration of any Board license probationary period; (2) lifetime active participation in AA or other 12-step program with a sponsor; and (3) intensive psychotherapy, at least two sessions per week, for at least one year with a qualified therapist (MFT or Ph.D.).

41. Based on their observations of Petitioner, both Drs. Zemansky and Golden support Petitioner's application for license reinstatement. Dr. Zemansky opined Petitioner has made the necessary change that will allow him to continue working his solid recovery program and "bring his gifts to patients."

42. Petitioner has maintained steady employment since December 2019. From December 2019 through May 2021, Petitioner was employed at Peer Link Disability Review. From September 2020 through August 2021, he also worked as a

Senior Debt Analyst at Pan American Consulting, Inc. From August 2021 through May 2022, Petitioner worked as a Clinical Research Coordinator at American Institute of Research. From May 2022 to the present, he has worked as a Clinical Research Associate at Syneos Health.

43. Petitioner last practiced medicine on July 13, 2018. He has completed numerous continuing medical education courses since June of 2021, including a medical ethics course.

44. In addition to his AA Hospitals and Institutions commitment, Petitioner has given back to his community in other ways. He has volunteered at a homeless shelter, and he has helped prepare and serve food on Skid Row.

45. Petitioner expressed extreme remorse for "leading a duplicitous life" and exposing his patients to danger. Petitioner recalled being "a two-faced person, unable to tell people about [his] problems, [instead] lying and keeping up false pretenses." Petitioner previously resented the people who notified the Board of his addiction. He now believes they saved his life and the public from exposure to an impaired physician. Petitioner apologized to the Board "for lying and subversion and for being a difficult probationer." He assured the Board he is committed to his recovery and will not repeat his prior misconduct.

46. Petitioner vowed to maintain a "lifelong commitment to recovery." He noted, "It took 10 years, and [hitting] rock bottom," but he is now committed to doing "the internal work" and rehabilitating his "nature." Petitioner has embraced "a spiritual way of living, with a sense of service, support, honesty, and presence that guides [his] life." He believes he has changed "profoundly and fundamentally" and has gained a much greater respect for himself and the world around him. Petitioner assured the

Board that, through his recovery efforts, he has “finally become that person [he] should have been when [he] graduated from medical school” and can practice medicine safely and ethically.

47. Through the years, Petitioner has gathered “many tools” to maintain his sobriety. His AA sponsor has handed him wisdom which includes being in a state of faith instead of fear, acceptance instead of resentment, gratitude instead of pity, honesty instead of dishonesty, and virtue instead of vice. Petitioner has learned to be honest with himself and courageous enough to speak the truth. He now connects authentically with human beings, and he has developed relationships with a group of friends who are available to each other.

48. Petitioner harbors deep regret and great shame about his prior wrongdoing. His recovery program helps him deal with these emotions. As part of Step Nine, Petitioner has reached out to family and friends to make amends.

49. Petitioner has the support of numerous family members, friends, partners in recovery, and the two AA members he sponsors. Petitioner’s supporters submitted letters confirming his sobriety and supporting reinstatement of his licensure. Three of Petitioner’s supporters also testified on his behalf: Petitioner’s AA sponsor, Dr. Peterson; John Kowalczyk, D.O.; and Robert Peters Jr., R.N.

50. Nurse Peters, who had previously obtained a restraining order against Petitioner, wholeheartedly supports Petitioner’s re-licensure. Nurse Peters recalled Petitioner’s earlier addiction struggles prompted him to seek a restraining order against Petitioner. However, once Petitioner began sincere recovery efforts, he apologized to Nurse Peters, and they have reconciled as close friends. Nurse Peters observed that Petitioner is “completely changed” and devoted to his recovery.

51. Dr. Kowalczyk, who has worked with Petitioner at the American Institute of Research, confirmed Petitioners' sobriety. He described Petitioner as compassionate, reliable, and professional.

52. Petitioner's AA sponsor, Dr. Peterson, described Petitioner's "full circle journey," and confirmed he has "landed in a place of dignity, integrity, and sobriety." Dr. Peterson observed Petitioner, "has definitely done the work" to maintain sobriety. He opined Petitioner is ready to "help others and be a part of society," "beyond the devastation of drug use," and "hopefully practice in his trained [area of] expertise."

LEGAL CONCLUSIONS

1. Petitioner bears the burden of proving both his rehabilitation and his fitness to practice medicine. (*Housman v. Board of Medical Examiners* (1948) 84 Cal.App.2d 308.) The standard of proof is clear and convincing evidence. (*Hippard v. State Bar* (1989) 49 Cal.3d 1084, 1092; *Feinstein v. State Bar* (1952) 39 Cal.2d 541, 546-547.) Petitioner's burden also requires a showing that he is no longer deserving of the adverse character judgment associated with the discipline imposed against his certificate. (*Tardiff v. State Bar* (1980) 27 Cal.3d 395, 403.) Petitioner has met his burden of proof.

2. Business and Professions Code section 2307, subdivision (e), states in pertinent part:

The panel of the division or the administrative law judge hearing the petition may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the

petitioner's activities during the time the certificate was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability. . . .

3. In his testimony and in his narrative statement submitted with the Petition, Petitioner acknowledged full responsibility for the violations leading to the ISO, Cease Practice Orders, 2017 Probation Order, and ultimately the 2019 Surrender. He also expressed extreme remorse for his prior actions. Remorse for one's conduct and the acceptance of responsibility are the cornerstones of rehabilitation. (*In the Matter of Brown* (1993) 2 Cal. State Bar Ct. Rptr. 309, 317.) Fully acknowledging the wrongfulness of past actions is an essential step towards rehabilitation. (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940; *In the Matter of Brown, supra*.)

4. However, remorse alone does not demonstrate rehabilitation. A truer indication of rehabilitation is sustained conduct over an extended period of time. (*In re Menna* (1995) 11 Cal.4th 975, 991.) Unlike his perfunctory prior participation in recovery, Petitioner has demonstrated a sincere, wholehearted dedication to his sobriety. He has taken proactive and comprehensive rehabilitative steps to address his addiction and to prevent recurrence. Petitioner has now successfully completed a medical detoxification program, complied with the requirements of sober living residences, and embraced a 12-step program with sustained and documented sobriety for over three years including three years of negative drug testing. He underwent evaluations by Drs. Skipper and Golden to confirm his sobriety and to obtain recommendations for continued rehabilitation. He has the support of Drs. Zemansky and Golden who verified his sobriety and dedication to his recovery. Petitioner also has the support numerous family members, friends, partners in recovery, two members of AA whom he sponsors, and his AA sponsor. Petitioner's supporters all confirm his

sobriety and his dedication to recovery. One of these supporters, Nurse Peters, who previously obtained a restraining order against Petitioner, now wholeheartedly supports his re-licensure. Another supporter, Dr. Kowalczyk, who has worked with Petitioner, confirmed his sobriety, professionalism, and reliability in the work setting. The totality of the evidence indicates a significantly reduced chance of recidivism should Petitioner be granted reinstatement of his license under stringent probationary terms.

5. Petitioner has sustained his burden of proving his rehabilitation and fitness to practice medicine to warrant reinstatement of his physician and surgeon's certificate on a probationary basis.

ORDER

The petition of Vahe Michael Azarian, M.D., for reinstatement of his physician and surgeon's certificate is granted. Petitioner's physician and surgeon's certificate shall be reinstated, immediately revoked, and the revocation shall be stayed, and Petitioner shall be placed on probation for five years under the following terms and conditions:

1. NOTIFICATION

Within seven days of the effective date of this Decision, Petitioner shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Petitioner, at any other facility where Petitioner engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance

coverage to Petitioner. Petitioner shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities, or insurance carrier.

2. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE NURSES

During probation, Petitioner is prohibited from supervising physician assistants and advanced practice nurses.

3. OBEY ALL LAWS

Petitioner shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

4. QUARTERLY DECLARATIONS

Petitioner shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Petitioner shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

5. GENERAL PROBATION REQUIREMENTS

Compliance with Probation Unit

Petitioner shall comply with the Board's probation unit.

Address Changes

Petitioner shall, at all times, keep the Board informed of Petitioner's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Place of Practice

Petitioner shall not engage in the practice of medicine in Petitioner's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

License Renewal

Petitioner shall maintain a current and renewed California physician's and surgeon's license.

Travel or Residence Outside California

Petitioner shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty calendar days.

In the event Petitioner should leave the State of California to reside or to practice Petitioner shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

6. INTERVIEW WITH THE BOARD OR ITS DESIGNEE

Petitioner shall be available in person upon request for interviews either at Petitioner's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

7. NON-PRACTICE WHILE ON PROBATION

Petitioner shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Petitioner's return to practice. Non-practice is defined as any period of time Petitioner is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If Petitioner resides in California and is considered to be in non-practice, Petitioner shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve Petitioner from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event Petitioner's period of non-practice while on probation exceeds 18 calendar months, Petitioner shall successfully complete the Federation of State Medical Board's Special Purpose Examination, or, at the Board's discretion, a clinical competence assessment program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Petitioner's period of non-practice while on probation shall not exceed two years.

Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice for a Petitioner residing outside of California, will relieve Petitioner of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or Controlled Substances; and Biological Fluid Testing.

8. SOLO PRACTICE PROHIBITION

Petitioner is prohibited from engaging in the solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice where: 1) Petitioner merely shares office space with another physician but is not affiliated for purposes of providing patient care, or 2) Petitioner is the sole physician practitioner at that location.

If Petitioner fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the effective date of this Decision, Petitioner shall receive a notification from the Board or its designee to cease the practice of medicine within three calendar days after being so notified. The Petitioner shall not resume practice until an appropriate practice setting is established.

If, during the course of the probation, the Petitioner's practice setting changes and the Petitioner is no longer practicing in a setting in compliance with this Decision,

the Petitioner shall notify the Board or its designee within five calendar days of the practice setting change. If Petitioner fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the practice setting change, Petitioner shall receive a notification from the Board or its designee to cease the practice of medicine within three calendar days after being so notified. Petitioner shall not resume practice until an appropriate practice setting is established.

9. VIOLATION OF PROBATION

Failure to fully comply with any term or condition of probation is a violation of probation. If Petitioner violates probation in any respect, the Board, after giving Petitioner notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Petitioner during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

10. LICENSE SURRENDER

Following the effective date of this Decision, if Petitioner ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Petitioner may request to surrender his or her license. The Board reserves the right to evaluate Petitioner's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Petitioner shall within 15 calendar days deliver Petitioner's wallet and wall certificate to the Board or its designee and Petitioner shall

no longer practice medicine. Petitioner will no longer be subject to the terms and conditions of probation. If Petitioner re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

11. PROBATION MONITORING COSTS

Petitioner shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

12. CLINICAL COMPETENCE ASSESSMENT PROGRAM

Within 60 calendar days of the effective date of this Decision, Petitioner shall enroll in a clinical competence assessment program approved in advance by the Board or its designee. Petitioner shall successfully complete the program not later than six months after Petitioner's initial enrollment unless the Board or its designee agrees in writing to an extension of that time.

The program shall consist of a comprehensive assessment of Petitioner's physical and mental health and the six general domains of clinical competence as defined by the Accreditation Council on Graduate Medical Education and American Board of Medical Specialties pertaining to Petitioner's current or intended area of practice. The program shall take into account data obtained from the pre-assessment, self-report forms and interview, and the Decision(s), Accusation(s), and any other information that the Board or its designee deems relevant. The program shall require Petitioner's on-site participation for a minimum of three and no more than five days as determined by the program for the assessment and clinical education evaluation.

Petitioner shall pay all expenses associated with the clinical competence assessment program.

At the end of the evaluation, the program will submit a report to the Board or its designee which unequivocally states whether the Petitioner has demonstrated the ability to practice safely and independently. Based on Petitioner's performance on the clinical competence assessment, the program will advise the Board or its designee of its recommendation(s) for the scope and length of any additional educational or clinical training, evaluation or treatment for any medical condition or psychological condition, or anything else affecting Petitioner's practice of medicine. Petitioner shall comply with the program's recommendations.

Determination as to whether Petitioner successfully completed the clinical competence assessment program is solely within the program's jurisdiction.

Petitioner shall not practice medicine until Petitioner has successfully completed the program and has been so notified by the Board or its designee in writing.

13. CONTROLLED SUBSTANCES – ABSTAIN FROM USE

Petitioner shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, dangerous drugs as defined by Business and Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not apply to medications lawfully prescribed to Petitioner by another practitioner for a bona fide illness or condition.

Within 15 calendar days of receiving any lawfully prescribed medications, Petitioner shall notify the Board or its designee of the: issuing practitioner's name,

address, and telephone number; medication name, strength, and quantity; and issuing pharmacy name, address, and telephone number.

If Petitioner has a confirmed positive biological fluid test for any substance (whether or not legally prescribed) and has not reported the use to the Board or its designee, Petitioner shall receive a notification from the Board or its designee to immediately cease the practice of medicine. Petitioner shall not resume the practice of medicine until the final decision on an accusation and/or a petition to revoke probation is effective. An accusation and/or petition to revoke probation shall be filed by the Board within 30 days of the notification to cease practice. If Petitioner requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the Petitioner with a hearing within 30 days of the request, unless Petitioner stipulates to a later hearing. If the case is heard by an Administrative Law Judge alone, he or she shall forward a Proposed Decision to the Board within 15 days of submission of the matter. Within 15 days of receipt by the Board of the Administrative Law Judge's proposed decision, the Board shall issue its Decision, unless good cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its decision within 15 days of submission of the case, unless good cause can be shown for the delay. Good cause includes, but is not limited to, non-adoption of the proposed decision, request for reconsideration, remands and other interlocutory orders issued by the Board. The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an accusation or petition to revoke probation within 30 days of the issuance of the notification to cease practice or does not provide Petitioner with a hearing within 30 days of a such a request, the notification of cease practice shall be dissolved.

14. ALCOHOL – ABSTAIN FROM USE

Petitioner shall abstain completely from the use of products or beverages containing alcohol.

If Petitioner has a confirmed positive biological fluid test for alcohol, Petitioner shall receive a notification from the Board or its designee to immediately cease the practice of medicine. Petitioner shall not resume the practice of medicine until the final decision on an accusation and/or a petition to revoke probation is effective. An accusation and/or petition to revoke probation shall be filed by the Board within 30 days of the notification to cease practice. If Petitioner requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the Petitioner with a hearing within 30 days of the request, unless Petitioner stipulates to a later hearing. If the case is heard by an Administrative Law Judge alone, he or she shall forward a Proposed Decision to the Board within 15 days of submission of the matter. Within 15 days of receipt by the Board of the Administrative Law Judge's proposed decision, the Board shall issue its Decision, unless good cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its decision within 15 days of submission of the case, unless good cause can be shown for the delay. Good cause includes, but is not limited to, non-adoption of the proposed decision, request for reconsideration, remands and other interlocutory orders issued by the Board. The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an accusation or petition to revoke probation within 30 days of the issuance of the notification to cease practice or does not provide Petitioner with a hearing within 30 days of a such a request, the notification of cease practice shall be dissolved.

15. CLINICAL DIAGNOSTIC EVALUATIONS AND REPORTS

Within 30 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter as may be required by the Board or its designee, Petitioner shall undergo and complete a clinical diagnostic evaluation, including any and all testing deemed necessary, by a Board-appointed board certified physician and surgeon. The examiner shall consider any information provided by the Board or its designee and any other information he or she deems relevant and shall furnish a written evaluation report to the Board or its designee.

The clinical diagnostic evaluation shall be conducted by a licensed physician and surgeon who holds a valid, unrestricted license, has three years' experience in providing evaluations of physicians and surgeons with substance abuse disorders, and is approved by the Board or its designee. The clinical diagnostic evaluation shall be conducted in accordance with acceptable professional standards for conducting substance abuse clinical diagnostic evaluations. The evaluator shall not have a current or former financial, personal, or business relationship with Petitioner within the last five years. The evaluator shall provide an objective, unbiased, and independent evaluation. The clinical diagnostic evaluation report shall set forth, in the evaluator's opinion, whether Petitioner has a substance abuse problem, whether Petitioner is a threat to himself or others, and recommendations for substance abuse treatment, practice restrictions, or other recommendations related to Petitioner's rehabilitation and ability to practice safely. If the evaluator determines during the evaluation process that Petitioner is a threat to himself or others, the evaluator shall notify the Board within 24 hours of such a determination.

In formulating his or her opinion as to whether Petitioner is safe to return to either part-time or full-time practice and what restrictions or recommendations should

be imposed, including participation in an inpatient or outpatient treatment program, the evaluator shall consider the following factors: Petitioner's license type; Petitioner's history; Petitioner's documented length of sobriety (i.e., length of time that has elapsed since Petitioner's last substance use); Petitioner's scope and pattern of substance abuse; Petitioner's treatment history, medical history and current medical condition; the nature, duration and severity of Petitioner's substance abuse problem or problems; and whether Petitioner is a threat to himself or the public.

For all clinical diagnostic evaluations, a final written report shall be provided to the Board no later than 10 days from the date the evaluator is assigned the matter. If the evaluator requests additional information or time to complete the evaluation and report, an extension may be granted, but shall not exceed 30 days from the date the evaluator was originally assigned the matter.

The Board shall review the clinical diagnostic evaluation report within five business days of receipt to determine whether Petitioner is safe to return to either part-time or full-time practice and what restrictions or recommendations shall be imposed on Petitioner based on the recommendations made by the evaluator. Petitioner shall not be returned to practice until he has at least 30 days of negative biological fluid tests or biological fluid tests indicating that he has not used, consumed, ingested, or administered to himself a prohibited substance, as defined in section 1361.51, subdivision (e), of Title 16 of the California Code of Regulations.

Clinical diagnostic evaluations conducted prior to the effective date of this Decision shall not be accepted towards the fulfillment of this requirement. The cost of the clinical diagnostic evaluation, including any and all testing deemed necessary by the examiner, the Board or its designee, shall be borne by the licensee.

Petitioner shall not engage in the practice of medicine until notified by the Board or its designee that he is fit to practice medicine safely. The period of time that Petitioner is not practicing medicine shall not be counted toward completion of the term of probation. Petitioner shall undergo biological fluid testing as required in this Decision at least two times per week while awaiting the notification from the Board if he is fit to practice medicine safely.

Petitioner shall comply with all restrictions or conditions recommended by the examiner conducting the clinical diagnostic evaluation within 15 calendar days after being notified by the Board or its designee.

16. PSYCHOTHERAPY

Within 60 calendar days of the effective date of this Decision, Petitioner shall submit to the Board or its designee for prior approval the name and qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. Upon approval, Petitioner shall undergo and continue psychotherapy treatment, including any modifications to the frequency of psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

The psychotherapist shall consider any information provided by the Board or its designee and any other information the psychotherapist deems relevant and shall furnish a written evaluation report to the Board or its designee. Petitioner shall cooperate in providing the psychotherapist any information and documents that the psychotherapist may deem pertinent.

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Petitioner shall have the treating psychotherapist submit quarterly status reports to the Board or its designee. The Board or its designee may require Petitioner to undergo psychiatric evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of probation, Petitioner is found to be mentally unfit to resume the practice of medicine without restrictions, the Board shall retain continuing jurisdiction over Petitioner's license and the period of probation shall be extended until the Board determines that Petitioner is mentally fit to resume the practice of medicine without restrictions.

Petitioner shall pay the cost of all psychotherapy and psychiatric evaluations.

17. SUBSTANCE ABUSE SUPPORT GROUP MEETINGS

Within 30 days of the effective date of this Decision, Petitioner shall submit to the Board or its designee, for its prior approval, the name of a substance abuse support group which he shall attend for the duration of probation. Petitioner shall attend substance abuse support group meetings at least once per week, or as ordered by the Board or its designee. Petitioner shall pay all substance abuse support group meeting costs.

The facilitator of the substance abuse support group meeting shall have a minimum of three years' experience in the treatment and rehabilitation of substance abuse and shall be licensed or certified by the state or nationally certified organizations. The facilitator shall not have a current or former financial, personal, or business relationship with Petitioner within the last five years. Petitioner's previous participation in a substance abuse group support meeting led by the same facilitator does not constitute a prohibited current or former financial, personal, or business relationship.

The facilitator shall provide a signed document to the Board or its designee showing Petitioner's name, the group name, the date and location of the meeting, Petitioner's attendance, and Petitioner's level of participation and progress. The facilitator shall report any unexcused absence by Petitioner from any substance abuse support group meeting to the Board, or its designee, within 24 hours of the unexcused absence.

18. NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION

Within seven days of the effective date of this Decision, Petitioner shall provide to the Board the names, physical addresses, mailing addresses, and telephone numbers of any and all employers and supervisors. Petitioner shall also provide specific, written consent for the Board, Petitioner's worksite monitor, and Petitioner's employers and supervisors to communicate regarding Petitioner's work status, performance, and monitoring.

For purposes of this section, "supervisors" shall include the Chief of Staff and Health or Well Being Committee Chair, or equivalent, if applicable, when the Petitioner has medical staff privileges.

19. WORKSITE MONITOR FOR SUBSTANCE-ABUSING LICENSEE

Within 30 calendar days of the effective date of this Decision, Petitioner shall submit to the Board or its designee for prior approval as a worksite monitor, the name and qualifications of one or more licensed physician and surgeon, other licensed health care professional if no physician and surgeon is available, or, as approved by the Board or its designee, a person in a position of authority who is capable of monitoring the Petitioner at work.

The worksite monitor shall not have a current or former financial, personal, or familial relationship with Petitioner, or any other relationship that could reasonably be expected to compromise the ability of the monitor to render impartial and unbiased reports to the Board or its designee. If it is impractical for anyone but Petitioner's employer to serve as the worksite monitor, this requirement may be waived by the Board or its designee, however, under no circumstances shall Petitioner's worksite monitor be an employee or supervisee of the licensee.

The worksite monitor shall have an active unrestricted license with no disciplinary action within the last five years and shall sign an affirmation that he or she has reviewed the terms and conditions of Petitioner's disciplinary order and agrees to monitor Petitioner as set forth by the Board or its designee.

Petitioner shall pay all worksite monitoring costs.

The worksite monitor shall have face-to-face contact with Petitioner in the work environment on as frequent a basis as determined by the Board or its designee, but not less than once per week; interview other staff in the office regarding Petitioner's behavior, if requested by the Board or its designee; and review Petitioner's work attendance.

The worksite monitor shall verbally report any suspected substance abuse to the Board and Petitioner's employer or supervisor within one business day of occurrence. If the suspected substance abuse does not occur during the Board's normal business hours, the verbal report shall be made to the Board or its designee within one hour of the next business day. A written report that includes the date, time, and location of the suspected abuse; Petitioner's actions; and any other information deemed important by

the worksite monitor shall be submitted to the Board or its designee within 48 hours of the occurrence.

The worksite monitor shall complete and submit a written report monthly or as directed by the Board or its designee which shall include the following: (1) Petitioner's name and Physician's and Surgeon's Certificate number; (2) the worksite monitor's name and signature; (3) the worksite monitor's license number, if applicable; (4) the location or location(s) of the worksite; (5) the dates Petitioner had face-to-face contact with the worksite monitor; (6) the names of worksite staff interviewed, if applicable; (7) a report of Petitioner's work attendance; (8) any change in Petitioner's behavior and/or personal habits; and (9) any indicators that can lead to suspected substance abuse by Petitioner. Petitioner shall complete any required consent forms and execute agreements with the approved worksite monitor and the Board, or its designee, authorizing the Board, or its designee, and worksite monitor to exchange information.

If the worksite monitor resigns or is no longer available, Petitioner shall, within five calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If Petitioner fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, Petitioner shall receive a notification from the Board or its designee to cease the practice of medicine within three calendar days after being so notified. Petitioner shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

20. BIOLOGICAL FLUID TESTING

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Petitioner shall immediately submit to biological fluid testing, at Petitioner's expense, upon request of the Board or its designee. "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair follicle testing, or similar drug screening approved by the Board or its designee. Petitioner shall make daily contact with the Board or its designee to determine whether biological fluid testing is required. Petitioner shall be tested on the date of the notification as directed by the Board or its designee. The Board may order a Petitioner to undergo a biological fluid test on any day, at any time, including weekends and holidays. Except when testing on a specific date as ordered by the Board or its designee, the scheduling of biological fluid testing shall be done on a random basis. The cost of biological fluid testing shall be borne by the Petitioner.

During the first year of probation, Petitioner shall be subject to 52 to 104 random tests. During the second year of probation and for the duration of the probationary term, up to five years, Petitioner shall be subject to 36 to 104 random tests per year. Only if there has been no positive biological fluid tests in the previous five consecutive years of probation, may testing be reduced to one time per month. Nothing precludes the Board from increasing the number of random tests to the first-year level of frequency for any reason.

Prior to practicing medicine, Petitioner shall contract with a laboratory or service, approved in advance by the Board or its designee, that will conduct random, unannounced, observed, biological fluid testing and meets all the following standards:

(a) Its specimen collectors are either certified by the Drug and Alcohol Testing Industry Association or have completed the training required to serve as a collector for the United States Department of Transportation.

(b) Its specimen collectors conform to the current United States Department of Transportation Specimen Collection Guidelines.

(c) Its testing locations comply with the Urine Specimen Collection Guidelines published by the United States Department of Transportation without regard to the type of test administered.

(d) Its specimen collectors observe the collection of testing specimens.

(e) Its laboratories are certified and accredited by the United States Department of Health and Human Services.

(f) Its testing locations shall submit a specimen to a laboratory within one business day of receipt and all specimens collected shall be handled pursuant to chain of custody procedures. The laboratory shall process and analyze the specimens and provide legally defensible test results to the Board within seven business days of receipt of the specimen. The Board will be notified of non-negative results within one business day and will be notified of negative test results within seven business days.

(g) Its testing locations possess all the materials, equipment, and technical expertise necessary in order to test Petitioner on any day of the week.

(h) Its testing locations are able to scientifically test for urine, blood, and hair specimens for the detection of alcohol and illegal and controlled substances.

(i) It maintains testing sites located throughout California.

(j) It maintains an automated 24-hour toll-free telephone system and/or a secure on-line computer database that allows the Petitioner to check in daily for testing.

(k) It maintains a secure, HIPAA-compliant website or computer system that allows staff access to drug test results and compliance reporting information that is available 24 hours a day.

(l) It employs or contracts with toxicologists that are licensed physicians and have knowledge of substance abuse disorders and the appropriate medical training to interpret and evaluate laboratory biological fluid test results, medical histories, and any other information relevant to biomedical information.

(m) It will not consider a toxicology screen to be negative if a positive result is obtained while practicing, even if the Petitioner holds a valid prescription for the substance.

Prior to changing testing locations for any reason, including during vacation or other travel, alternative testing locations must be approved by the Board and meet the requirements above.

The contract shall require that the laboratory directly notify the Board or its designee of non-negative results within one business day and negative test results within seven business days of the results becoming available. Petitioner shall maintain this laboratory or service contract during the period of probation.

A certified copy of any laboratory test result may be received in evidence in any proceedings between the Board and Petitioner.

If a biological fluid test result indicates Petitioner has used, consumed, ingested, or administered to himself a prohibited substance, the Board shall order Petitioner to cease practice and instruct Petitioner to leave any place of work where Petitioner is practicing medicine or providing medical services. The Board shall immediately notify

all of Petitioner's employers, supervisors and work monitors, if any, that Petitioner may not practice medicine or provide medical services while the cease-practice order is in effect.

A biological fluid test will not be considered negative if a positive result is obtained while practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited substance use exists, the Board shall lift the cease-practice order within one business day.

After the issuance of a cease-practice order, the Board shall determine whether the positive biological fluid test is in fact evidence of prohibited substance use by consulting with the specimen collector and the laboratory, communicating with the licensee, his treating physician(s), other health care provider, or group facilitator, as applicable.

For purposes of this condition, the terms "biological fluid testing" and "testing" mean the acquisition and chemical analysis of a Petitioner's urine, blood, breath, or hair.

For purposes of this condition, the term "prohibited substance" means an illegal drug, a lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by Petitioner and approved by the Board, alcohol, or any other substance the Petitioner has been instructed by the Board not to use, consume, ingest, or administer to himself.

If the Board confirms that a positive biological fluid test is evidence of use of a prohibited substance, Petitioner has committed a major violation, as defined in California Code of Regulations, title 16, section 1361.52, subdivision (a), and the Board shall impose any or all of the consequences set forth in section 1361.52, subdivision

(b), in addition to any other terms or conditions the Board determines are necessary for public protection or to enhance Petitioner's rehabilitation.

21. VIOLATION OF PROBATION CONDITION FOR SUBSTANCE-ABUSING LICENSEES

Failure to fully comply with any term or condition of probation is a violation of probation.

A. If Petitioner commits a major violation of probation as defined by section 1361.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take one or more of the following actions:

(1) Issue an immediate cease-practice order and order Petitioner to undergo a clinical diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of Regulations, at Petitioner's expense. The cease-practice order issued by the Board or its designee shall state that Petitioner must test negative for at least a month of continuous biological fluid testing before being allowed to resume practice. For purposes of determining the length of time a Petitioner must test negative while undergoing continuous biological fluid testing following issuance of a cease-practice order, a month is defined as 30 calendar days. Petitioner may not resume the practice of medicine until notified in writing by the Board or its designee that he may do so.

(2) Increase the frequency of biological fluid testing.

(3) Refer Petitioner for further disciplinary action, such as suspension, revocation, or other action as determined by the Board or its designee. (Cal. Code Regs., tit. 16, § 1361.52, subd. (b).)

B. If Petitioner commits a minor violation of probation as defined by section 1361.52, subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take one or more of the following actions:

(1) Issue a cease-practice order;

(2) Order practice limitations;

(3) Order or increase supervision of Petitioner;

(4) Order increased documentation;

(5) Issue a citation and fine, or a warning letter;

(6) Order Petitioner to undergo a clinical diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of Regulations, at Petitioner's expense;

(7) Take any other action as determined by the Board or its designee. (Cal. Code Regs., tit. 16, § 1361.52, subd. (d).)

C. Nothing in this Decision shall be considered a limitation on the Board's authority to revoke Petitioner's probation if he has violated any term or condition of probation. (See Cal. Code Regs., tit. 16, § 1361.52, subd. (e).) If Petitioner violates probation in any respect, the Board, after giving Petitioner notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Petitioner during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

22. COMPLETION OF PROBATION

Petitioner shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Petitioner's certificate shall be fully restored.

DATE: 01/09/2023

Julie Cabos-Owen

JULIE CABOS-OWEN

Administrative Law Judge

Office of Administrative Hearings